

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #6	CCRB Case #: 201805259	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/22/2018 1:12 AM	Location of Incident: § 87(2)(b)	Precinct: 68	18 Mo. SOL 8/22/2019	EO SOL 8/22/2019	
Date/Time CV Reported Mon, 07/02/2018 11:32 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 07/02/2018 11:32 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Varrone	15843	961406	068 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Philip Mei	16715	960926	068 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Varrone	Abuse: Police Officer Joseph Varrone threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)

## Case Summary

On February 28, 2018, § 87(2)(b) filed the following complaint with the CCRB in person.

On February 22, 2018, § 87(2)(b) called 911 to make a noise complaint as he believed that his neighbors were banging on their shared pipes. At approximately 1:12 a.m., PO Joseph Varrone and PO Philip Mei, both of the 68<sup>th</sup> Precinct, arrived at § 87(2)(b)'s apartment, located at § 87(2)(b), in Brooklyn. After requesting that officers go upstairs to inspect the noise, PO Varrone told § 87(2)(b) "If I come here one more time, you're going to the hospital" (**Allegation A: Abuse of Authority, § 87(2)(g)**). PO Varrone and PO Mei left the scene soon after. § 87(2)(b) was not removed to the hospital and he was not arrested or issued a summons.

No summons issued nor arrests made regarding this incident.

Video footage was obtained from § 87(2)(b) which captured a portion of this incident (BR 01), and an embedded Snag-it video is attached below. However, no images were captured, therefore, it is treated as an audio recording in the analysis below.

## Findings and Recommendations

### Allegation A – Abuse of Authority: Police Officer Joseph Varrone threatened to remove § 87(2)(b) to the hospital.

§ 87(2)(b) stated to the investigation that he called 911 to report that his upstairs neighbors were banging on his pipes (Board Review 02-03). § 87(2)(b) told the 911 operator about the banging, that he was being harassed by his neighbors, and that he believed his phone and apartment were bugged. § 87(2)(b) made routine calls to 911 and 311 regarding this issue before the incident, starting in late January 2018. He believed that the pipe banging was deliberately orchestrated by his neighbors and that hidden cameras were placed in his ceiling to survey his movements. He expressed this to those officers of the 68<sup>th</sup> Precinct that responded to his apartment prior to February 22, 2018. On February 22, 2018, at approximately 1:12 a.m., when PO Joseph Varrone and PO Philip Mei responded to his apartment door, he did not open the door at any point as he was concerned about being taken to the hospital due to previous hospitalizations initiated during similar interactions with police. He told officers he wanted them to investigate the noise coming from above his apartment. One of the first things PO Varrone said was, "If I come here one more time, you're going to the hospital." No ambulance was called and § 87(2)(b) did not go to the hospital. PO Varrone spent between 45 seconds and two minutes in front of his door.

Video footage obtained for this incident did not capture any images, only audio. PO Varrone is heard complaining about § 87(2)(b) wasting officers' time because he tells § 87(2)(b) "every night" that § 87(2)(b) must attend to his complaint in landlord-tenant court. PO Varrone tells § 87(2)(b) once that he is, "going right to the hospital." Then, he tells § 87(2)(b) "If I come here one more time, you're going to the hospital."



201805259\_20180928\_1136\_DM.mp4

PO Varrone stated that he was familiar with § 87(2)(b) and his address prior to the incident (BR 04). His command received numerous noise complaints from § 87(2)(b) late at night for a few months prior. PO Varrone had responded to such calls multiple times. Each time, § 87(2)(b) complained to him about his neighbors banging on his pipes. PO Varrone would explain it was simply the heat turning on in his apartment, but § 87(2)(b) never accepted that explanation. PO Varrone previously questioned § 87(2)(b)'s neighbors, who denied any noise-making. Neighbors believed that § 87(2)(b)'s mental state was not normal, but none expressed concern regarding his behavior. PO Varrone was aware of § 87(2)(b) being hospitalized by other officers prior to the incident, but he was never involved in such cases. PO Varrone did not recall if he spoke to § 87(2)(b)'s neighbors on the incident date. On the incident date, PO Varrone was unable to make a full assessment of § 87(2)(b)'s demeanor as his apartment door remained shut throughout their interaction, but described § 87(2)(b)'s voice as a little agitated without being raised. PO Varrone explained again to § 87(2)(b) that the pipes make noise when the heat turns on. § 87(2)(b) ignored this explanation, elaborating that someone placed cameras in his ceiling so that his neighbors could follow his movements and coordinate their pipe-banging accordingly. PO Varrone asked § 87(2)(b) multiple times to open the door so that he and PO Mei could better assist § 87(2)(b). § 87(2)(b) did not cooperate with these requests. PO Varrone told § 87(2)(b) that if his behavior continued, he and his partner would have to call for an ambulance. He issued this warning due to § 87(2)(b)'s irrational statements, paranoia, and refusal to open the door to speak face-to-face. PO Varrone was trained to recognize these traits as those of an Emotionally Disturbed Person (EDP). § 87(2)(b) never issued threats to anyone during the interaction. When played a portion of a recording of the incident (BR 01), PO Varrone reiterated that it was § 87(2)(b)'s EDP signs that led to his warning of hospitalization, but also added that § 87(2)(b)'s chronic calling and refusal to listen to officers' explanations of the pipe-banging factored into his assessment of § 87(2)(b)'s mental state.

PO Mei corroborated PO Varrone's testimony (BR 05). PO Mei could not fully assess § 87(2)(b)'s demeanor but described his voice as loud and frustrated. PO Varrone told § 87(2)(b) that if they were called again to his residence that they might send him to the hospital. PO Mei never discussed with PO Varrone the possibility of hospitalizing § 87(2)(b). However, PO Mei understood why PO Varrone issued a warning of hospitalization to § 87(2)(b) due to § 87(2)(b)'s previous visits to the hospital for psychological evaluation, chronic calling to 911 and 311, and PO Mei's own previous visits to § 87(2)(b)'s address for a noise complaint. PO Mei responded to § 87(2)(b)'s home about ten times before the incident date. PO Mei also thought that § 87(2)(b) was exhibiting odd behavior. He described this odd behavior as § 87(2)(b)'s refusal to open the door to the officers, only repeating to officers to go upstairs and investigate his noise complaint. This was the first occasion where PO Mei responded to § 87(2)(b)'s address and § 87(2)(b) refused to open the door.

Patrol Guide Procedure 221-13 states that an EDP is a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others (BR 06). When an

officer identifies someone as an EDP, they must take that person into protective custody and are granted the authority to remove that person to the hospital.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

### Civilian and Officer CCRB Histories

- § 87(2)(b)  
[REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- PO Varrone has been a member of service for two years and this is the first CCRB complaint in which he has been named as a subject (see officer history).

## Mediation, Civil and Criminal Histories

- The case was sent to mediation on July 3, 2018. It was returned to the Investigations Unit on September 14, 2018, as § 87(2)(b) stated he wanted an investigation
- A FOIL request was submitted with the New York City Office of the Comptroller for a Notice of Claim on September 27, 2018, and will be added to the case file upon receipt.
- According to the Office of Court Administration, § 87(2)(b) has no criminal convictions within New York City as of September 27, 2018 (BR 08).

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

Squad Leader: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_